

NORFOLK, VIRGINIA

ACTION OF THE COUNCIL

TUESDAY, JULY 23, 2013 – 7:00 P.M.

Prayer offered by Councilman Paul Riddick, followed by the Pledge of Allegiance.

President Fraim moved to excuse Mr. Protogyrou and Ms. Williams from today's meeting.

Motion adopted.

Yes: Burfoot, Riddick, Smigiel, Whibley, Winn and Fraim.

No: None.

President Fraim moved to dispense with the reading of the minutes of the previous meeting.

Motion adopted.

Yes: Burfoot, Riddick, Smigiel, Whibley, Winn and Fraim.

No: None.

CERTIFICATION OF CLOSED MEETING

A Resolution entitled, "A Resolution certifying a closed meeting of the Council of the City of Norfolk in accordance with the provisions of the Virginia Freedom of Information Act," was introduced in writing and read by its title.

ACTION: The Resolution as introduced was **adopted**, effective July 23, 2013.

Yes: Burfoot, Riddick, Smigiel, Whibley, Winn and Fraim.

No: None.

INVITATION TO BID

IB-1

INVITATION TO BID scheduled this day pursuant to action of the Council on **June 25, 2013**, under State law, public notice having been inserted in the local press by the City Clerk to accept bids for a 25-year Lease Agreement for a Cellular Tower in **Barraud Park at 1136 Vista Street**.

Thereupon, an Ordinance entitled, “An Ordinance approving the Lease of certain property owned by the City of Norfolk, located at **1136 Vista Street** for a period up to twenty-five years, upon certain conditions, and authorizing the City Manager to negotiate and execute a Lease Agreement on behalf of the City,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective August 23, 2013.

Yes: Burfoot, Riddick, Smigiel, Whibley, Winn, and Fraim.

No: None.

PUBLIC HEARINGS

PH-1

PUBLIC HEARING scheduled this day pursuant to action of the Council on **June 25, 2013**, under State law, public notice having been inserted in the local press by the City Clerk, on the application of the **City Planning Commission** to amend Chapters 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 25 and 27 of the **Zoning Ordinance of the City of Norfolk, 1992**, in order to reorganize the Use Tables in each Chapter, normalize terminology for the uses, make typographical corrections, and improve conformity with the Religious Land Use and Institutionalized Persons Act.

Thereupon, an Ordinance entitled, “An Ordinance to amend and reordain portions of Chapters 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 25 and 27 of the Zoning Ordinance of the City of Norfolk, 1992, in order to reorganize the Use Tables in each Chapter, normalize terminology for the Uses, make typographical corrections, and improve conformity with the Religious Lane Use and Institutionalized Persons Act (42 U.S.C. § 200cc),” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective July 23, 2013.

Yes: Burfoot, Riddick, Smigiel, Whibley, Winn, and Fraim.

No: None.

PH-2

PUBLIC HEARING scheduled this day pursuant to action of the Council on **July 9, 2013**, under State law, public notice having been inserted in the local press by the City Clerk, to hear comments on the conveyance of a **GEM Lot to Ricky Flood and Debbie Flood** on property located at **WS Lens Avenue**.

Thereupon, an Ordinance entitled, “An Ordinance authorizing the conveyance to **Ricky and Debbie Stephens Flood**, of a certain parcel of property, acquired by the City of Norfolk pursuant to Section 58.1-3970.1 of the Code of Virginia, 1950, as amended, and approving the terms and conditions of the Conveyance Agreement,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective August 23, 2013.

Yes: Burfoot, Riddick, Smigiel, Whibley, Winn, and Fraim.

No: None.

PH-3

PUBLIC HEARING scheduled this day pursuant to action of the Council on **July 9, 2013**, under State law, public notice having been inserted in the local press by the City Clerk, to hear comments on the conveyance of a **GEM Lot to Robert Baker and Vickie Baker** on property located at **NS C Avenue**.

Thereupon, an Ordinance entitled, “An Ordinance authorizing the conveyance to **Robert Baker**, of a certain parcel of property, acquired by the City of Norfolk pursuant to Section 58.1-3970.1 of the Code of Virginia, 1950, as amended, and approving the terms and conditions of the Conveyance Agreement,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective August 23, 2013.

Yes: Burfoot, Riddick, Smigiel, Whibley, Winn, and Fraim.

No: None.

CONSENT AGENDA

C-1

Letter from the City Manager recommending a public hearing be scheduled on the application of the **City Planning Commission** to amend Chapter 8 of the **Zoning Ordinance of the City of Norfolk, 1992**, pertaining to uses in the D-3 (Freemason and Granby Conservation and Mixed Use) and D-4 (Downtown Arts and Design) districts.

ACTION: City Clerk authorized to advertise for a public hearing on August 27, 2013.

Yes: Burfoot, Riddick, Smigiel, Whibley, Winn, and Fraim.

No: None.

C-2

Letter from the City Manager recommending a public hearing be scheduled on the application of the **Patricia Letchworth** for a) a rezoning from I-1 (Limited Industrial) district to C-2 (Commercial Corridor) district and PCO-21st Street (Pedestrian Commercial Overlay) district and b) a Special Exception to permit Mixed Uses on property located at **935 Woodrow Avenue**.

ACTION: City Clerk authorized to advertise for a public hearing on August 27, 2013.

Yes: Burfoot, Riddick, Smigiel, Whibley, Winn, and Fraim.

No: None.

C-3

Letter from the City Manager recommending a public hearing be scheduled on the application of the **Bridgette Armstrong** to close, vacate and discontinue an un-named 50 foot street lying south of Westminster Avenue between **3115 and 3119 Westminster Avenue**.

ACTION: City Clerk authorized to advertise for a public hearing on August 27, 2013.

Yes: Burfoot, Riddick, Smigiel, Whibley, Winn, and Fraim.

No: None.

C-4

Letter from the City Manager recommending a public hearing be held to hear comments on the conveyance of a **GEM Lot** to **Charles Beerbower and Donald Beerbower** on property located at **NS Atwood Avenue**.

ACTION: City Clerk authorized to advertise for a public hearing on August 27, 2013.

Yes: Burfoot, Riddick, Smigiel, Whibley, Winn, and Fraim.

No: None.

C-5

Letter from the City Manager recommending a public hearing be held to hear comments on the conveyance of a **GEM Lot** to **Carolyn A. Brown** on property located at **814 E. 29th Street**.

ACTION: City Clerk authorized to advertise for a public hearing on August 27, 2013.

Yes: Burfoot, Riddick, Smigiel, Whibley, Winn, and Fraim.

No: None.

C-6

Letter from the City Manager recommending a public hearing be held to hear comments on the conveyance of a **GEM Lot** to **Brian Gates** on property located at **1511 Manson Street**.

ACTION: City Clerk authorized to advertise for a public hearing on August 27, 2013.

Yes: Burfoot, Riddick, Smigiel, Whibley, Winn, and Fraim.

No: None.

C-7

Letter from the City Manager recommending a public hearing be scheduled on the conveyance of the City of Norfolk's interest, if any, in certain lots known as **9518 3rd Bay Street**, to **Pretty Lake Associates, LLC**.

ACTION: City Clerk authorized to advertise for a public hearing on August 27, 2013.

Yes: Burfoot, Riddick, Smigiel, Whibley, Winn, and Fraim.

No: None.

REGULAR AGENDA

R-1

Letter from the City Manager and an Ordinance entitled, “An Ordinance granting a **Special Exception** to permit the sale of alcoholic beverages for off-premises consumption on property located at **738 West 22nd Street, Suite 10,**” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective July 23, 2013.

Yes: Burfoot, Riddick, Smigiel, Whibley, Winn, and Fraim.

No: None.

R-2

Letter from the City Manager and an Ordinance entitled, “An Ordinance granting a **Special Exception** to permit the operation of an entertainment establishment on property located at **5957 East Virginia Beach Boulevard,**” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective July 23, 2013.

Yes: Burfoot, Riddick, Smigiel, Whibley, Winn, and Fraim.

No: None.

R-3

Letter for the City Manager and the following two Ordinances:

An Ordinance entitled, “An Ordinance granting a **Special Exception** to permit the sale of alcoholic beverages for off-premises consumption on property located at **6667 East Virginia Beach Boulevard,**” was introduced in writing and read by its title.

Steve Romine, 999 Waterside Drive, was present to answer questions.

ACTION: Continued to August 27, 2013.

Yes: Burfoot, Riddick, Smigiel, Whibley, Winn, and Fraim.

No: None.

R-3A

An Ordinance entitled, “An Ordinance granting a **Special Exception** to permit a retail goods establishment to operate after midnight on property located at **6667 East Virginia Beach Boulevard**,” was introduced in writing and read by its title.

ACTION: Continued to August 27, 2013.

Yes: Burfoot, Riddick, Smigiel, Whibley, Winn, and Frain.

No: None.

R-4

Letter from the City Manager and an Ordinance entitled, “An Ordinance accepting a Grant Award of \$700.00 from the **Target 2013 Public Safety Grant Program** and appropriating and authorizing the expenditure of the grant funds to support the **Norfolk Police Department’s Citywide National Night Out** event on August 6, 2013,” was introduced in writing and read by its title.

Joe Cook, 1147 Surrey Crescent, spoke regarding the newspaper article the Norfolk Police Department’s may not have properly conducted a rape investigation.

ACTION: The Ordinance as introduced was **adopted**, effective July 23, 2013.

Yes: Burfoot, Riddick, Smigiel, Whibley, Winn, and Frain.

No: None.

R-5

Letter from the City Manager and an Ordinance entitled, “An Ordinance to amend and reordain Ordinance No. 44,027 accepting a \$341,494.00 Grant Award from the **U.S. Department of Justice FY 10 Edward Byrne Memorial Justice Assistance Grant Program** and appropriating and authorizing the expenditure of the funds for various projects for the program and of the accrued interest estimated at \$5,300.00 for the purchase of equipment for law enforcement activities for the program,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective July 23, 2013.

Yes: Burfoot, Riddick, Smigiel, Whibley, Winn, and Frain.

No: None.

R-6

Letter from the City Manager and an Ordinance entitled, “An Ordinance accepting \$40,903.20 from the **Schools and Libraries Division of the Universal Service Fund E-Rate Grant Program** and appropriating and authorizing the expenditure of \$40,903.20 for telecommunications and technology services for the **Norfolk Public Library**,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective July 23, 2013.

Yes: Burfoot, Riddick, Smigiel, Whibley, Winn, and Fraim.

No: None.

R-7

Letter from the City Manager and an Ordinance entitled, “An Ordinance approving a Right of Entry for the benefit of the **Commonwealth of Virginia, Department of Transportation**,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective July 23, 2013.

Yes: Burfoot, Riddick, Smigiel, Whibley, Winn, and Fraim.

No: None.

R-8

Letter from the City Manager and an Ordinance entitled, “An Ordinance approving the acceptance of payment of funds in lieu of tree and shrub replacement or mitigation in the sum of \$29,841.00 from **Dominion Virginia Power**, and appropriating and authorizing expenditure of the funds by the **Bureau of Parks and Forestry**,” was introduced in writing and read by its title.

Ellis James, 2021 Kenlake Place, spoke in favor of this matter.

ACTION: The Ordinance as introduced was **adopted**, effective July 23, 2013.

Yes: Burfoot, Riddick, Smigiel, Whibley, Winn, and Fraim.

No: None.

R-9

Letter from the City Manager and an Ordinance entitled, “An Ordinance approving a License Agreement with **Hoy Construction, Inc.**, for the use of a portion of the City of Norfolk property located at **1630 Armistead Avenue**,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective July 23, 2013.

Yes: Burfoot, Riddick, Smigiel, Whibley, Winn, and Fraim.

No: None.

R-10

Letter from the City Manager and a Resolution entitled, “A Resolution approving and adopting the **policies and procedures** for the disposition of certain parcels of city owned property commonly referred to as “**GEM**” parcels,” was introduced in writing and read by its title.

ACTION: The Resolution as introduced was **adopted**, effective July 23, 2013.

Yes: Burfoot, Riddick, Smigiel, Whibley, Winn, and Fraim.

No: None.

R-11

Letter from the City Manager and a Resolution entitled, “A Resolution adopting **financial policies**,” was introduced in writing and read by its title.

Dan Montague, 4605 Krick Street, spoke on the Senior Tax Relief Program.

ACTION: The Resolution as introduced was **adopted**, effective July 23, 2013.

Yes: Burfoot, Riddick, Smigiel, Whibley, Winn, and Fraim.

No: None.

R-12

Letter from the City Manager and an Ordinance entitled, “An Ordinance appropriating Three Hundred Sixty Thousand Dollars (\$360,000.00) from the **U.S. Marshal Service Special Revenue Account**, if and when received, and authorizing the expenditure thereof at the direction of the Sheriff to pay for various employee benefits, equipment purchases and maintenance costs related to programs designed to improve the efficiency of the jail,” was introduced in writing and read by its title.

Ellis James, 2021 Kenlake Place, spoke in favor of this matter.

ACTION: The Ordinance as introduced was **adopted**, effective July 23, 2013.

Yes: Burfoot, Riddick, Smigiel, Whibley, Winn, and Fraim.

No: None.

R-13

Letter from the City Manager and an Ordinance entitled, “An Ordinance appropriating Thirty Five Thousand Dollars (\$35,000.00) and authorizing the expenditure thereof by the Sheriff, if and when received from the **Deputy Fund Service Special Revenue Account**, to pay for holding functions for his employees, extending condolences and congratulations to his employees and similar incentive-related benefits for his employees,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective July 23, 2013.

Yes: Burfoot, Riddick, Smigiel, Whibley, Winn, and Fraim.

No: None.

R-14

Letter from the City Manager and an Ordinance entitled, “An Ordinance approving the acceptance of receipts from a **Special Revenue Project, the Sheriff’s Community Corrections Program**, appropriating Six Hundred Ninety Seven Thousand and Forty Nine Dollars (\$697,049.00) for Fiscal Year 2014, authorizing the expenditure thereof by the Sheriff, authorizing the Sheriff’s continued employment of twelve (12) persons for the program and providing funds for their salaries and benefits,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective July 23, 2013.

Yes: Burfoot, Riddick, Smigiel, Whibley, Winn, and Fraim.

No: None.

R-15

Letter from the City Manager and an Ordinance entitled, “An Ordinance appropriating One Hundred Seventy Two Thousand Five Dollars (\$172,005.00) if and when received from the **Sheriff** and authorizing the expenditure thereof towards salaries and benefits for **three sheriff employees**,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective July 23, 2013.

Yes: Burfoot, Smigiel, Whibley, Winn, and Fraim.

No: Riddick.

R-16

Letter from the City Manager and an Ordinance entitled, “An Ordinance approving the acceptance of a Grant Award in the sum of \$300.00 from the **Firefighters Charitable Foundation**, appropriating and authorizing expenditure of the grant funds for the **Juvenile Firesetter Intervention and Education Program**,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective July 23, 2013.

Yes: Burfoot, Riddick, Smigiel, Whibley, Winn, and Fraim.

No: None.

R-17

Letter from the City Attorney and an Ordinance entitled, “An Ordinance directing the **City Treasurer to issue a refund to Norfolk Hotel Partners, LLC of \$3,519.44 plus interest** based upon the overpayment of food and beverage tax for May 2013,” was introduced in writing and read by its title. (This refund is based on the overpayment of food and beverage tax for May 2013).

ACTION: The Ordinance as introduced was **adopted**, effective July 23, 2013.

Yes: Burfoot, Riddick, Smigiel, Whibley, Winn, and Fraim.

No: None.

R-18

Letter from the City Attorney and an Ordinance entitled, “An Ordinance directing the **City Treasurer to issue a refund to Tides Baseball Club, LP, of \$3,575.30 plus interest** based upon the overpayment of Concessions Business License Tax for 2013,” was introduced in writing and read by its title. (This refund is based on the overpayment of Concessions Business License Tax for 2013).

ACTION: The Ordinance as introduced was **adopted**, effective July 23, 2013.

Yes: Burfoot, Riddick, Smigiel, Whibley, Winn, and Fraim.

No: None.

R-19

Letter from the City Attorney and an Ordinance entitled, “An Ordinance directing the **City Treasurer to issue a refund to Alcon Laboratories, Inc. of \$13,773.43 plus interest** based upon the correction of business personal property tax assessments for tax years 2012 and 2013,” was introduced in writing and read by its title. (This refund is based on the correction of previously filed and attested business personal property tax assessments for tax years 2012 and 2013 resulting in a refund due).

ACTION: The Ordinance as introduced was **adopted**, effective July 23, 2013.

Yes: Burfoot, Riddick, Smigiel, Whibley, Winn, and Fraim.

No: None.

R-20

An Ordinance entitled, “An Ordinance to schedule a City Council meeting on Tuesday, August 20, 2013 at 2:00 p.m.,” was introduced in writing and read by its title.

ACTION: The Ordinance as introduced was **adopted**, effective July 23, 2013.

Yes: Burfoot, Riddick, Smigiel, Whibley, Winn, and Fraim.

No: None.

R-21

A Resolution, “A Resolution appointing or reappointing 66 persons to 11 Boards, 7 Commission, 2 Committees, and 1 Authority for certain,” was introduced in writing and read by its title.

Jane Bethel, 5632 Brandon Boulevard, Virginia Beach, spoke regarding the policies and procedures of grievance hearings.

ACTION: The Ordinance as introduced was **adopted**, effective July 23, 2013.

Yes: Burfoot, Riddick, Smigiel, Whibley, Winn, and Fraim.

No: None.

R-22

Letter from the City Attorney requesting confirmation of the appointment of Heather A. Mullen, as a Deputy City Attorney I, effective August 26, 2013.

ACTION: Appointment confirmed.

Yes: Burfoot, Riddick, Smigiel, Whibley, Winn, and Fraim.

No: None.

NEW BUSINESS

1. Danny Lee Ginn, 3845 Dare Circle, spoke concerning good government.